

Montgomery County, Maryland
Analysis of Impediments to Fair Housing Choice (AI)
Fiscal Year 2010
Mid-Year Update
January, 2010

The Analysis of Impediments to Fair Housing Choice (AI) examines whether all residents or potential residents of Montgomery County share equal access to housing under the federal Fair Housing Act of 1968 and the Fair Housing Amendments Act of 1988, regardless of their race, color, religion, sex, national origin, disability or familial status.

Montgomery County is an entitlement community - a local government that receives an annual allocation of federal funding through the U.S. Department of Housing and Urban Development (HUD) to create and preserve affordable housing. HUD requires that each entitlement community review public and private policies and practices to promote fair housing choice and to address any impediments to fair housing discovered through this review. Montgomery County will affirmatively further fair housing by conducting an Analysis of Impediments to fair housing choice within its jurisdiction, take appropriate actions to overcome the effects of any impediments identified through this analysis and maintain records reflecting the analysis and related actions.

The Department of Housing and Community Affairs (DHCA) takes the lead in preparing and updating the Analysis of Impediments to Fair Housing Choice (AI). In 2007 a comprehensive analysis was undertaken as part of a community-wide effort to identify key areas of concern. DHCA collaborated with the County's Office of Human Rights, and the members of the Interagency Fair Housing Coordinating Group (IFHCG), which is comprised of representatives from multiple public agencies, non-profit organizations and the private sector. These partnerships continue, and in 2007, it was decided that the scope of the impediments to fair housing choice should be broadly identified to provide an overarching framework for future efforts and collaboration.

The County has identified six overarching impediments to fair housing choice:

- ☐ Lack of currently available affordable housing;
- ☐ Lack of available, especially affordable, housing for residents with a disability;
- ☐ Difficulty siting affordable housing, particularly special needs and group housing;
- ☐ Unfair lending practices;
- ☐ Lack of general awareness concerning fair housing issues among residents and professionals in Montgomery County;
- ☐ Shortage of comprehensive testing and study information on the fair housing environment in Montgomery County.

Impediments to fair housing choice, as defined by HUD, include:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choices; and
- Any actions, omissions, or decisions that have the *effect* of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.

In addition, the Montgomery County Code in Chapter 27, Human Rights and Civil Liberties, Section 27-12, Discriminatory Housing Practices, prohibits discrimination in housing on the basis of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, source of income, sexual orientation, gender identity, or age.

Identified Impediments and Ongoing Actions

- ☐ **Lack of currently available affordable housing**
- ☐ **Lack of available, especially affordable, housing for residents with a disability**

While these two impediments are listed separately, the root cause for both is often an economic one. Housing costs in Montgomery County are high, and, for someone with a limited income, housing can be unaffordable. The median household income in Montgomery County for Fiscal Year 2009 as reported by the U.S. Department of Housing & Urban Development (HUD) is \$102,700, and the Fiscal Year 2010 Fair Market Rent for a two-bedroom unit in the county is \$1,494. In addition, persons with disabilities experience a greater degree of unemployment or underemployment than is experienced by those without disabilities and are almost three times more likely to be below the federal poverty level. In recognition of this fact, the County Council is considering legislation that, if adopted, would create a local-government hiring preference for people with developmental, psychiatric or severe physical disabilities. (Note: Bill 46-09 was unanimously approved by the County Council on February 2, 2010)

In spite of a Fiscal Year 2010 operating budget that is 1.1 percent less than the approved budget for Fiscal Year 2009, and that marks the first decrease in a Montgomery County budget since Fiscal Year 1992, Montgomery County continues its strong commitment for affordable housing and for “safety net” services for the most vulnerable. The total number of affordable housing units produced and preserved for 2009 was 1,607, up from the previous number of 1,571. In addition, Montgomery County, in partnership with the Housing Opportunities Commission (HOC), is providing federal stimulus funds to enable HOC to acquire and rehabilitate vacant, foreclosed properties, preserving these properties as affordable housing for the long-term. To date 12 homes have been acquired. In addition, the County is funding non-profit housing providers, like Habitat for Humanity,

to enable these organizations to acquire vacant, foreclosed properties for sale to lower-income homebuyers.

For FY10, the County Council approved \$57.8 million for the Housing Initiative Fund (HIF). This locally-funded housing trust fund is used to increase and preserve the county's supply of affordable housing, including housing for residents with special needs. For this fiscal year, \$8.9 million of the HIF has been reserved for continued implementation of Montgomery County's Housing First Plan, a plan to assist homeless individuals and families move rapidly into stable, permanent housing, including rental assistance subsidy payments. Also, tenant-based rental assistance in the amount of \$750,000 is being provided through the HOME Investment Partnership Program to the Montgomery County Coalition for the Homeless to provide needed subsidies for residents of permanent supportive housing. Montgomery County is also providing \$4 million for services that help seniors remain independent in the community, \$4.62 million for in-home aide services, and \$2.2 million to fund the Office of Human Rights, the county office with primary responsibility for fair housing activities.

The County continues to support "Design for Life," a voluntary, certification program for Visit-Ability and Live-Ability in single family attached and detached homes that promotes accessibility in both newly constructed and renovated housing. The County Executive has formed a Sub-cabinet on Senior Vital Living to address issues of particular concern to seniors, a growing segment of the Montgomery County population. Given interest among County Council members in learning more about service delivery to seniors wanting to age in place in their current homes and communities, the Office of Legislative Oversight prepared a report "Naturally Occurring Retirement Communities and Retirement Villages," (OLO report 2009-11 released on June 16, 2009). Through the Sub-cabinet on Senior Vital Living efforts are underway to identify ways to support these programs for seniors aging in place. For example, the county is currently providing operating support funds for Rebuilding Together, a non-profit that provides home repairs at no cost for low-income owners, most of whom are seniors. For Fiscal Year 2009, Rebuilding Together installed 103 grab bars, repaired or installed 81 railings and installed 7 wheelchair ramps. In addition, the County provides funding to ensure in furtherance of ADA compliance for public facilities and through ongoing streetscaping and other community development efforts.

Of particular note for 2010, are the County's ongoing outreach efforts regarding the census. Working to ensure a complete count of county residents during the decennial census on April 1, 2010, is an important way that Montgomery County can ensure that the county receives a fair allocation of federal and state funding. This funding is critical to affirmatively further fair housing and address identified impediments. Federal and state resources are key in developing new affordable housing, preserving existing housing as affordable and accessible and in providing the income and service supports that are critically needed to enable our lower-income residents, particularly those with disabilities, a full range of housing choices.

Outreach is being conducted in multiple languages, with education specifically directed to those immigrant groups who, because of national origin or limited English proficiency, may be unfamiliar with, or apprehensive about, participating in the census. Efforts are also underway to ensure that information is available in alternative formats and that persons with other special needs are counted.

❑ Difficulty siting affordable housing, particularly special needs and group housing

In July 2009, the Montgomery County Planning Department released a Draft Amendment to the Housing Element of the county's master plan. ("The General Plan"). The draft stresses the need to include affordable housing in areas close to public transportation and jobs and to provide incentives for, and reduce the regulatory barriers to, producing affordable housing. The Draft Amendment to the Housing Element also recommends amending the zoning ordinance to clarify that affordable housing is a permitted use in all residential zones.

DHCA comments on all master and sector plans, advocating that affordable housing be addressed in the plans and that the Maryland National Capital Park and Planning Commission establish an "affordable housing goal" in each plan area. DHCA also supports zoning text amendments that create a more attractive planning and economic environment for the development of affordable housing, including increases to allowable heights, densities and Floor Area Ratios in order to provide added flexibility to facilitate affordable housing development.

Currently the County Council is considering changes to the Zoning Code (zoning text amendment 09-08) that would create new commercial residential mixed-use zones (CR zones), that would serve to foster the development of balanced, walkable communities where residents can work, live and shop. Under CR zones, housing affordability is one category of public benefit that would allow for increased density.

The County continues to work in partnership with other organizations to site affordable housing for special populations. Currently, DHCA is working with the Montgomery County Coalition for the Homeless on a project to adaptively reuse and rehabilitate a five-story commercial building into 32 personal living quarters for homeless adults. Also, mixed-income housing is being planned for a portion of the 11 acre public parcel that will be used as the replacement location for the 3rd District Police Station.

The draft amendment to the Housing Element may be found at:

<http://www.montgomeryplanning.org/community/housing/documents/HousingMasterPlanPBDraft.pdf>

❑ **Unfair Lending Practices**

According to the Office of Human Rights, Montgomery County has had no documented cases of unfair lending practices this year. The County is continuing to work in close partnership with lending institutions and industry professionals to address housing needs, particularly in light of the increase in foreclosure events.

Along with Prince George's County and Baltimore City, Montgomery County is one of the jurisdictions in the State of Maryland hardest hit by the foreclosure crisis. In addressing foreclosures, Montgomery County is investing staff time and financial resources in working to mitigate the negative impact of foreclosure events on both the owners and tenants directly impacted as well as on the communities most affected.

Montgomery County, in partnership with the State and other advocacy groups, has worked hard to ensure that accurate and timely information is available so that residents do not unwittingly become victims of a scam and know where to turn for help if they are victimized. The County's web site has a section devoted to foreclosure prevention that provides information on how to avoid scams and fraud and provides information on fraud prevention at information sessions and through one-on-one housing counseling efforts.

In 2008, the State enacted changes to the foreclosure laws in Maryland that provided better protections to those impacted and that were among the most comprehensive in the nation. These included, for example, effectively increasing the pre-foreclosure period from 15 days to 135 days. The County, in collaboration with the State, has funded an expansion of the number of certified housing counselors in the county to work with owners threatened with foreclosure to ensure that they receive timely assistance.

Currently, three counseling agencies, Homefree-USA, Latino Economic Development Corporation and Housing Initiative partnership (HIP) are providing counseling, with housing counselors provided office space in government buildings and in neighborhood service sites to facilitate easy access. For calendar year 2009, 1,795 households received counseling services, counseling agencies participated in 27 community events and conducted 26 speaking engagements. In January, 2009, there were 4 full-time and 1 part-time counselors. By the end of the year, December 31, 2009, that number had increased to 11.5.

The County has also collected and mapped foreclosure data, making the data available on line, and using it to identify any trends. Staff is also working closely with banks that have foreclosed to mitigate the impact on neighborhoods by reducing the length of time properties are vacant and in bank inventories and to ensure that vacant properties are maintained.

Recently, the Justice Department, under the direction of Assistant Attorney General Tom Perez (a Montgomery County resident and former Montgomery County councilmember), has created a new Fair Lending unit that will focus exclusively on unfair lending practices, including both the unfair denial of minority access to home loans as well as any

discriminatory efforts to target minorities for subprime loans. The increased efforts at the federal level will help ensure that unfair lending practices are addressed.

The County will continue its commitment to fair lending practices and its enforcement of existing laws to protect against unfair lending practices. As County Executive Isiah Leggett has said: “Homeownership is a basic dream held by many of our residents and their ability to be able not only to purchase that home legally but to remain in the home, should not be threatened by unscrupulous practices and practitioners.”

❑ Lack of general awareness concerning Fair Housing issues among residents and professionals in Montgomery County

Lack of general awareness concerning Fair Housing issues among residents and professionals in Montgomery County will always be noted as an “impediment” in acknowledgement of the fact that education concerning fair housing issues is an on-going activity. We are a county with a growing and increasingly diverse population, and, as such, education must be continuous, presented in a context that is relevant to current community concerns and presented in a manner that is linguistically appropriate and culturally sensitive.

With the current economy, characterized by increased unemployment and under-employment, and with the rise in the number of housing foreclosures and distressed housing sales, outreach and education about fair housing law is particularly important as investors acquiring distressed or foreclosed properties may be inexperienced landlords, and as owners who have experienced foreclosure may now be seeking affordable rentals.

Montgomery County licenses all residential, rental housing, and provides assistance and information regarding laws of importance to both landlords and tenants. DHCA provides extensive information on how to recognize and prevent discriminatory housing practices, including lending procedures and practices, fair housing requirements and additional information concerning occupancy standards and issues specifically related to fair housing for persons with disabilities. DHCA provides sample leases, a Landlord-Tenant Handbook (in English and Spanish), and an on-line apartment rental guide. The department works with landlords and tenants to resolve disputes and funds several nonprofits that provide additional information, training, counseling and service referrals.

The Office of Human Rights (OHR) conducts on-going outreach through a number of venues. There are always special activities planned in April as part of Fair Housing month, and most recently, (during the fall of 2009), OHR undertook a fair housing ad campaign that entailed a series of awareness ads shown on movie screens in advance of feature films in two, large multi-plex movie theaters in the county. The theater lobbies had an OHR display with handouts and information. OHR also has an ongoing “One Stop Fair Housing Shop” program that provides information through presentations directly to property managers and housing professionals. There was also additional outreach and fair housing education at the annual fall Fair Housing & Financial Fitness Day, held October 3, 2009.

OHR has been instrumental in reaching out to youth, both through the development of a fair housing curriculum incorporated into 10th grade social studies classrooms and, more generally, through Human Rights Diversity Camps for selected fifth graders that provide a weekend experience in inter-racial and inter-cultural understanding that works to address discrimination in all its forms.

Montgomery County is committed to ensuring that information is provided in alternative formats to meet the needs of persons with disabilities and in different languages for those with limited English proficiency. The County has, with leadership provided through the County Executive's Office of Community Partnerships, worked to ensure that all government agencies, regardless of their nature or level of public interaction, are able to provide linguistically appropriate services that are culturally aware and competent. This effort is in compliance with federal requirements to provide meaningful access to persons with Limited English Proficiency but goes beyond these requirements to embrace the county's growing diversity and to value the contributions of all residents.

❑ Shortage of comprehensive testing and study information on the fair housing environment in Montgomery County

The in-house fair housing testing program in the Office of Human Rights conducted 211 tests for Fiscal Year 2009. Tests were designed to identify disparate treatment under County and/or Federal Fair Housing laws and were designed to test on the basis of race, national origin, familial status and source of income. Based on the test results, there were a few cases with evidence of discrimination based on source of income that were deemed sufficient to pursue enforcement action as a violation of Chapter 27 of the Montgomery County Code. In these instances the housing providers indicated that Housing Choice Vouchers were not accepted for the requested rentals. One case has been closed while two others are open and still under investigation. A copy of the report can be accessed from the link below:

<http://www.montgomerycountymd.gov/hmrtml.asp?url=/content/humanrights/fairhousing.asp>

The Office of Human Rights also focuses on educational activities, including training for landlords, real estate professionals, property managers and lenders.

The Montgomery County Interagency Fair Housing Coordinating Group works to facilitate and promote the County's efforts to prevent discrimination in housing. This group is involved in identifying impediments to fair housing choice and working to address these. In addition, as a member of the Metropolitan Washington Council of Governments, Montgomery County continues to be actively involved in the region in information sharing regarding fair housing and affordable housing issues.

It is noteworthy that congressional hearings will soon be held regarding H.R. 476, the Housing Fairness Act. If adopted, this Act will provide funds for both nationwide

enforcement testing and for a research program to investigate the causes of segregation and segregation's economic and social impacts.

In conclusion, Montgomery County's Analysis of Impediments to Fair Housing Choice is not a static document, but one that provides a framework for action under broadly identified areas of concern. Choosing to work within this broad scope and framework reflects the County's long-term commitment to fair housing. While there are many successes, fully eradicating impediments to fair housing choice requires a long view. Eliminating the impediments identified in this update requires continuous effort on multiple fronts over many years.

In FY2010, actions taken to address identified impediments are on-going and respond to:

- changing conditions, like the foreclosure crisis and current economic recession;
- current concerns, like budget deficits and a complete count of residents for the decennial census; and,
- emerging opportunities, like technological advances that support expanded ways to communicate.

Within the mission of Montgomery County government and under the direction and leadership of County Executive Isiah Leggett, we are committed to pursuing the common good by working for and with the county's diverse community members to provide affordable housing in an inclusive community and to do so in keeping with essential values that include respect for the individual.

Montgomery County is committed to affirmatively furthering fair housing choice and to fostering the letter and spirit of Equal Housing Opportunity. This and other fair housing information is available in alternate formats upon request.

Comments or questions regarding this update may be addressed to:

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